

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.34352 OF 2014

DATED:09-02-2016

Between:

T. Sanjeevu ... Petitioner

And

The State of Andhra Pradesh
Rep. by Principal Secretary (Panchayat Raj &
Rural Development)
Secretariat Buildings
Secretariat
Hyderabad
and others ... Respondents

COUNSEL FOR THE PETITIONER: Mr. Maheswara Rao
Kuncheam

COUNSEL FOR RESPONDENT NO.1: A.G.P. for Panchayat Raj (AP)

COUNSEL FOR RESPONDENT NOS.2 and 3: A.G.P. for Revenue
(AP)

COUNSEL FOR RESPONDENT NO.4 : Mr. Kasa Jagan Mohan
Reddy

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for declaring proceedings in D.Dis. No.3245/2014/D2, dt.31.10.2014, of respondent No.2, whereby he has confirmed the order in Rc.No.246/B, dt.21.06.2014, of respondent No.3, as illegal, arbitrary, and violative of principles of natural justice and the provisions of the Andhra Pradesh Water, Land and Trees Act, 2002 (for short, 'the Act'), and consequently for setting aside the said proceedings.

This is a case where the petitioner and respondent No.4, who are natural brothers, are fighting over bore wells. On the complaint given by respondent No.4, respondent No.3 has passed an order under Section 15 of the Act directing the petitioner to close the bore well on the ground that the same was dug contrary to the provisions of the Act. This order was confirmed in the appeal filed by the petitioner, by respondent No.2. Assailing both these orders, the petitioner filed the writ petition.

The main submission of Mr. Maheswara Rao Kuncheam, learned counsel for the petitioner, is that under Section 15 of the Act, it is the 'authority' which is empowered to order closure of bore wells and that under Rule 10(1) of the Andhra Pradesh Water, Land and Trees Rules, 2004 (for short, 'the Rules'), at the Mandal Level, the authority shall comprise the functionaries referred in causes (a) to (m) of the said subsection. Admittedly, respondent No.2 being one of the members, as Ex-Officio Chairman, he cannot alone represent the authority and that it is only the authority as a whole with all the members as envisaged under Rule 10(1) of the Rules which can exercise the power under

Section 15 of the Act. Therefore, respondent No.3 does not have any jurisdiction to order closure of the bore well on his own.

The writ petition is accordingly allowed. Liberty is granted to respondent No.4 to file a fresh complaint and in that event respondent No.3 shall refer the same to the 'authority' as envisaged under Rule 10 of the Rules, and the said authority, after hearing both sides, shall take an appropriate decision as per the provisions of the Act, without being influenced by order dt.31.10.2014 of respondent No.2, within two months from the date of receipt of fresh complaint of respondent No.4.

The writ petition is accordingly allowed.

As a sequel to disposal of the writ petition, W.P.M.P. No.42967 of 2014 and W.V.M.P. No.3854 of 2014 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

09-02-2016

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